

## **Nortel Networks – Allocation Trial – Summary of May 12, 2014**

The Nortel trial began today, May 12<sup>th</sup>, 2014, with opening statements by representatives of several of the Core Parties. The evidentiary portion of the trial, that is scheduled to last until June 26<sup>th</sup>, is occurring concurrently in Toronto and Delaware courts and is presided over by Justice Newbould and Judge Gross, respectively. The opening statements set out the main arguments of the parties without delving into the complexities of the evidence.

The first Core Party to speak was the European, Middle East, and Asia Debtors (“EMEA”). Counsel for the EMEA Debtors focused their opening statements on explaining the “contribution allocation theory” that they suggest the Courts adopt in dividing the sales proceeds. The contribution allocation theory provides that the sales proceeds from the sale of intellectual property (“IP”) should be divided based on how much each party contributed to research and development, which ultimately created the IP.

Next, counsel for the United Kingdom Pension Claimants (“UKPC”) presented their theory of allocation, called the “pro rata allocation”, which has the effect of allocating sufficient funds from the Lock Box (i.e. the accounts holding the sales proceeds) to permit a distribution within each Estate to all unsecured creditors on a pro rata, pari passu basis, relative to the amount of their unsecured claim, irrespective of the entity against which they may have a claim. The UKPC is most focused on the idea that Nortel was integrated to the point that logical divisions of the structure cannot be made.

Finally, counsel for the United States Debtors argued that allocation should be made according to a revenue based approach. They argue that since the United States was the most lucrative market and Nortel Networks Inc. was the only entity that had the right to operate in that market, NNI owned the Nortel business in the United States.

Tomorrow, the trial will resume at 9:00 am where the US Debtors will complete their opening statements and counsel for the Monitor/Canadian Debtor and the Canadian Creditors Committee will present their opening statements.